

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MICHAEL POSTAWKO, *et al.*,

Plaintiffs,

v.

**MISSOURI DEPARTMENT OF
CORRECTIONS, *et al.*,**

Defendants.

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No. 2:16-cv-4219-NKL

**THIRD MOTION TO AMEND SCHEDULING ORDER
AND SUGGESTIONS IN SUPPORT THEREOF**

Plaintiffs believe there is good cause to extend certain case deadlines and therefore request that the Court enter a new scheduling order. Defendants consent to all but one of the requested extensions, as discussed more fully below:

1. In order to facilitate the parties' ongoing negotiations while not overly delaying progression of the case, Plaintiffs have agreed to extend the deadline for Defendants' responses to Plaintiffs' Fifth Set of Requests for Production by a total of five and a half weeks. Those responses are now due **November 25, 2019**.

2. For the same reason, Plaintiffs also agreed to extend the time for Defendants' depositions pursuant to Rule 30(b)(6). Those depositions were originally noticed for November 12 and 13, 2019. *See* ECF Nos. 388 and 389. Given that Plaintiffs' originally-proposed two-week extension of those noticed dates would fall the week of Thanksgiving, and in order to accommodate Defendants' schedules, Plaintiffs propose conducting those depositions on or before **December 13, 2019**. Defendants asked that the deadline be moved to December 20, 2019, although only Corizon (not MDOC) has indicated that it may need the third week of December to present "at least one" of its designees. Plaintiffs cannot consent to this late date given other

deadlines in this case. When witness availability for specific dates in December is confirmed, Plaintiffs will serve updated deposition notices.

3. Defendants have indicated their agreement to extend the time for Plaintiffs to submit their expert reports, currently due next Tuesday, November 26, 2019. Plaintiffs timely disclosed their list of experts to Defendants on October 28, 2019. *See* ECF No. 392. Because Defendants' discovery responses must be received and their Rule 30(b)(6) depositions must be completed sufficiently in advance of Plaintiffs' expert report deadline, the parties have agreed to extend the deadline for those reports to approximately two weeks following the week of the Rule 30(b)(6) depositions (accounting for holidays), *i.e.*, **January 6, 2020**.

4. Because these extensions affect other deadlines in this case, there is good cause to extend the current deadlines, which were ordered by the Court on August 28, 2019, *see* ECF No. 364. The parties have agreed to extend the forthcoming discovery deadlines as follows:

	<i>Current Deadline</i>	<i>Proposed New Deadline</i>
Defendants' deadline to designate expert witnesses	December 17, 2019	January 27, 2020
Defendants' deadline to serve expert reports	January 21, 2020	February 20, 2020
Deadline to file discovery motions, absent extraordinary circumstances	February 18, 2020	March 20, 2020
Deadline to depose expert witnesses	March 23, 2020	April 23, 2020
Deadline to conduct all pretrial discovery	March 23, 2020	April 23, 2020
Deadline to file dispositive motions	April 22, 2020	May 22, 2020

5. This is the third motion to amend the scheduling order. The first joint motion to amend the scheduling order was filed on August 9, 2017, before the case was stayed pending

appeal. *See* ECF No. 176. Plaintiffs' second motion to amend the scheduling order was filed on August 27, 2019. *See* ECF No. 362.

6. This motion is made in good faith, and not for the purpose of delay. It is Plaintiffs' expectation that moving the above deadlines will not affect the August 17, 2020, trial date or resolution of the pending motion for preliminary injunction.

7. As indicated above, the parties agree on all the relief sought herein, with the sole exception of the deadline by which to complete Defendants' Rule 30(b)(6) depositions. Plaintiffs' counsel is not comfortable extending that deadline any further given the delay already incurred in accommodating Defendants' schedules, the upcoming holidays, and Plaintiffs' deadline to serve expert reports. Plaintiffs continue to face irreparable harm from chronic Hepatitis C. Plaintiffs' counsel therefore seek to establish deadlines that will allow this case to be litigated in a timely fashion.

8. A proposed order on this Motion shall be submitted to the Court in compliance with the February 26, 2019 Amended Scheduling and Jury Trial Order.

WHEREFORE, for the foregoing reasons, the parties respectfully request that the Court enter an order amending its February 26, 2019 Amended Scheduling Order, as outlined in the proposed order submitted contemporaneously herewith.

Dated: November 19, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November, 2019, a true and correct copy of the foregoing document was electronically filed using the Court's online case filing system, which will send notice to all counsel of record.

By: /s/ Amy E. Breihan